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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/822,818	04/13/2004	Munetoshi Ueno	023971-0408	3456
22428	7590	03/20/2006	EXAMINER	
FOLEY AND LARDNER LLP			HO, HA DINH	
SUITE 500			ART UNIT	PAPER NUMBER
3000 K STREET NW				
WASHINGTON, DC 20007			3681	

DATE MAILED: 03/20/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	Application No.	Applicant(s)
	10/822,818	UENO, MUNETOSHI
	Examiner Ha D. Ho	Art Unit 3681

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) Responsive to communication(s) filed on 30 December 2005.
- 2a) This action is FINAL.      2b) This action is non-final.
- 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) Claim(s) 1-10 is/are pending in the application.
  - 4a) Of the above claim(s) 4 is/are withdrawn from consideration.
- 5) Claim(s) \_\_\_\_\_ is/are allowed.
- 6) Claim(s) 1-3,5 and 8-10 is/are rejected.
- 7) Claim(s) 6 and 7 is/are objected to.
- 8) Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) The specification is objected to by the Examiner.
- 10) The drawing(s) filed on \_\_\_\_\_ is/are: a) accepted or b) objected to by the Examiner.
 

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
  - a) All    b) Some \* c) None of:
    1. Certified copies of the priority documents have been received.
    2. Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
    3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)	4) <input type="checkbox"/> Interview Summary (PTO-413)
2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)	Paper No(s)/Mail Date. _____.
3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) Paper No(s)/Mail Date <u>4/13/04</u> .	5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)
	6) <input type="checkbox"/> Other: _____.

## DETAILED ACTION

1. This is the first Office Action on the merits of Application No. 10/822,818 filed on 04/13/04. Claims 1-10 are currently pending.

### *Election/Restrictions*

2. Applicant's election of Species 1, Figs. 1-5, in the reply filed on 12/30/05 is acknowledged. Because applicant did not distinctly and specifically point out the supposed errors in the restriction requirement, the election has been treated as an election without traverse (MPEP § 818.03(a)).
3. Claim 4 is withdrawn from further consideration pursuant to 37 CFR 1.142(b) as being drawn to a nonelected Species, there being no allowable generic or linking claim. Election was made **without** traverse in the reply filed on 12/30/05.

### *Claim Rejections - 35 USC § 102*

4. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

5. Claims 1-3, 5 and 8-10 are rejected under 35 U.S.C. 102(e) as being anticipated by Nakamuri et al (US 6,799,109).

Regarding claims 1 and 8-10, Nakamuri et al show a motor torque control system for a vehicle equipped with a motor 3, comprising: a vehicle speed sensor 24 that detects a vehicle speed; an accelerator opening detector 21 that detects an opening of an accelerator of the vehicle; a brake depression detector 22 that detects a brake manipulated quantity indicative of a depression state of a brake of the vehicle; and a control unit U coupled to the vehicle speed sensor, the accelerator opening detector, and the brake depression detector, the control unit being arranged to bring a motor torque of the motor to zero when the vehicle speed is lower than a predetermined speed (when vehicle speed is zero), when the accelerator opening is substantially zero, and when the brake depression state is set at a braking increasing state of increasing a braking force of the vehicle (when the brake pedal is depressed), and to generate the motor torque according to the brake manipulated quantity when the brake depression state is set at a braking decreasing state of decreasing a braking force of the vehicle (when the brake pedal is released) (see col. 12, lines 32-46 and col. 13, lines 18-33).

Regarding claim 2, wherein the control unit is further arranged to control the motor torque when one of the braking increasing state and the braking decreasing state is maintained for a predetermined time period (see Fig. 10, t<sub>1</sub>-t<sub>3</sub>).

Regarding claim 3, wherein the control unit is further arranged to increase a rate of change of the motor torque according to the increase of the brake manipulated quantity when the brake depression state is set at the braking decreasing state (see Fig. 10, t<sub>3</sub>-t<sub>4</sub>).

Regarding claim 5, wherein the braking increasing state includes a state that a time rate of change of the brake manipulated quantity is a positive value (when the brake pedal is depressed),

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and the braking decreasing state includes a state that the time rate of change of the brake manipulated quantity is a negative value (when the brake pedal is released).

***Allowable Subject Matter***

6. Claims 6 and 7 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

***Cited Prior Art***

7. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure: x which each shows

***Communication***

8. Submission of your response by facsimile transmission is encouraged. The fax phone numbers for the organization where this application or proceeding is assigned are (571) 273-8300. Recognizing the fact that reducing cycle time in the processing and examination of patent applications will effectively increase a patent's term, it is to your benefit to submit responses by facsimile transmission whenever permissible. Such submission will place the response directly in our examining group's hands and will eliminate Post Office processing and delivery time as well as the PTO's mail room processing and delivery time. For a complete list of correspondence not permitted by facsimile transmission, see M.P.E.P. 502.01. In general, most responses and/or amendments not requiring a fee, as well as those requiring a fee but charging such fee to a deposit account, can be submitted by facsimile transmission. Responses requiring a fee which applicant is paying by check should not be submitting by facsimile transmission separately from the check. Responses submitted by facsimile transmission should include a Certificate of Transmission (M.P.E.P. 512). The following is an example of the format the certification might take:

I hereby certify that this correspondence is being facsimile transmitted to  
the Patent and Trademark Office on \_\_\_\_\_  
(Date)

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Typed or printed name of person signing this certificate:

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(Signature)

If your response is submitted by facsimile transmission, you are hereby reminded that the original should be retained as evidence of authenticity (37 CFR 1.4 and M.P.E.P.. 502.02). Please do not separately mail the original or another copy unless required by the Patent and Trademark Office. Submission of the original response or a follow-up copy of the response after your response has been transmitted by facsimile will only cause further unnecessary delays in the processing of your application; duplicate responses where fees are charged to a deposit account may result in those fees being charged twice.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Ha D. Ho whose telephone number is **571-272-7091**. If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Charles Marmor can be reached on **571-272-7095**.

9. Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

HDH  
(571) 272-7091  
March 16, 2006

*Ha Ho*  
**HA HO**  
**PRIMARY EXAMINER**  
Art Unit 3681 *3/16/06*